

**HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
Writ Appeal No. 417 of 2007**

Between:

The Eluru Central Excise Employees
Cooperative Building Society Limited

... Appellant

And

The District Panchayat Officer,
West Godavari District, Eluru and others

... Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri M.L.Ali

Counsel for respondent No.1 : Government Pleader for
Panchayat Raj

Counsel for respondent Nos.2&3 : None

August 23, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 9-4-2007 passed by the learned Single Judge whereby he dismissed Writ Petition No. 23650 of 2006 filed by the appellant for restraining the respondents from interfering with its peaceful possession of land admeasuring Ac.0.17 cents situated in Survey No.162/3 at Vatluru Village, Pedapadu Mandal, West Godavari District.

A perusal of the record shows that the learned Single Judge dismissed the writ petition only on the ground that the additional documents for which time was sought by the counsel for the appellant

have not been filed. This is evinced from the order under challenge, which reads as under:

“On 5.3.2007 when the case was called for admission, the learned counsel for the petitioner sought time for filing additional documents. When the matter again appeared in the list on 20.3.2007, the learned counsel for the petitioner appeared and again sought time for filing additional documents. Therefore, this court adjourned the matter finally for a week and the matter was directed to be posed on 29.3.2007. The case was, however, not posted on 29.3.2007. Even to-day, no additional documents are filed and the junior counsel appearing for Sri M.L. Ali, the learned counsel for the petitioner, seeks time. This court is not inclined to grant time. As the additional documents are not filed, the writ petition is dismissed. No costs.”

Shri M.L. Ali invited our attention to ground No.3 of the memo of appeal to show that additional documents had been filed with WPMP No. 7745 of 2007 and argued that the learned Single Judge was not justified in dismissing the writ petition by wrongly assuming that the additional documents have not been filed.

The learned Government Pleader says that he is not in a position to controvert the factum of filing of WPMP No. 7745 of 2007 by the appellant.

From what has been mentioned above, it is clear that the learned Single Judge dismissed the writ petition of the appellant by erroneously assuming that he had failed to comply with the undertaking given earlier for filing additional documents. Therefore, the order under challenge is liable to be set aside with a direction that the writ petition filed by the appellant be decided on merits. Ordered accordingly.

The appeal is allowed in the manner indicated above.

Writ Petition No. 23650 of 2006 shall now be listed before an

appropriate Single Bench for disposal in accordance with law.

As a sequel to the above, WAMP No. 778 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 23, 2007

ks